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**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

SUBDIVISION REVIEW BOARD

Promoting the wise use of land
Helping build great communities

MEETING DATE December 5, 2005		CONTACT/PHONE James Caruso 781-5702		APPLICANT Fourmeaux du Sartel		FILE NO. CO 04-0154 SUB2003-00155	
SUBJECT Request by Jean-Noel and Karketta Fourmeaux Du Sartell for a vesting tentative parcel map to subdivide an existing 201 acre parcel into two parcels of 80.2 acres and 118.83 acres each for the purpose of sale and/or development. The project does not include off-site road improvements. The proposed project is within the Agriculture land use category and is located on the north side of Almond Drive, approximately 2 miles east of the intersection of Almond Drive and South El Pomar Road, approximately 8 miles east of the community of Templeton. The site is in the El Pomar/Estrella planning area.							
RECOMMENDED ACTION Request for denial of Vesting Tentative Parcel Map CO 04-0154 based on the findings listed in Exhibit A.							
ENVIRONMENTAL DETERMINATION This project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.							
LAND USE CATEGORY Agriculture		COMBINING DESIGNATION None		ASSESSOR PARCEL NUMBER 034-231-018		SUPERVISOR DISTRICT(S) 1	
PLANNING AREA STANDARDS: None applicable to this project.							
LAND USE ORDINANCE STANDARDS: 22.22.040 - Agricultural category							
EXISTING USES: Grazing							
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Dry farm/Grazing <i>East:</i> Dry farm/Grazing <i>South:</i> Vineyards/Orchards <i>West:</i> Vineyards/Orchards							
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Parks Division, APCD, Ag Commissioner.							
TOPOGRAPHY: Moderate slopes.				VEGETATION: Grasses; few scattered oaks.			
PROPOSED SERVICES: Water supply: On-site well Sewage Disposal: Individual septic system Fire Protection: CDF				ACCEPTANCE DATE: July 19, 2004			
<p align="center">ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242</p>							

ORDINANCE COMPLIANCE:

Minimum Parcel Size

Section 22.22.040 (old ordinance 22.20.040) of the Land Use Ordinance establishes standards for determining minimum parcel sizes in the Agriculture land use category. The proposed project site is under agricultural preserve contract. Section 22.20.040.c.1 of the LUO states that minimum parcel size for lands in ag preserve is based on the contract. The contract was initiated in 1972 and states that the minimum parcel size is 80 acres.

However, the subject contract also states that the minimum parcel size is subject to current rules for the approval of a subdivision. The current rules used to determine minimum parcel size include land capability and existing use tests, the Ag and Open Space Element and the Rules of Procedure. In this case, the current rules would allow for a 160 acre minimum parcel size. There is no current ag use of the property.

Also, state law (AB 1492), requires a local government to find that there is a substantive basis for approving the application and map, it must do so on the basis of a specific and affirmative determination that each of the resulting parcels is large enough to sustain their agricultural uses to which it is restricted, and that the subdivision will not result in residential development of the resulting parcels except where residential use will be incidental to the commercial agricultural use of the land.

According to the Ag Commissioner's office, there is not a substantive basis to make the above determination regardless of LUO statements regarding Williamson Contract land. As their department's attached correspondence states, the parcel is not large enough to sustain ag uses and residential development that is not incidental to the commercial ag use of the land would be the most likely result.

General Plan Consistency

Ag and Open Space Element Policy 20a states,

"Where a land division is proposed, the proposed parcels should be designed to ensure the long term protection of agricultural resources."

Ag and Open Space Element Policy 21 states,

"Minimum parcel size...shall be based upon the existing and potential use of the land for cropland and grazing. Minimum parcel size standards for the creation of new parcels are shown in Figure 2-2."

The proposed project is not consistent with these policies. Long term protection of ag resources, according to the Ag Commissioner's Office, is based on land capability and existing ag uses. Also, minimum parcel sizes in Table 2-2 of the Ag and Open Space Element requires 160 acre parcel sizes.

LEGAL LOT STATUS:

The lot is a portion of a larger lot that was created by a pre-1893 map. There is no indication that it is a legal lot.

FINDINGS - EXHIBIT A

CEQA Exemption

- A. This project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.

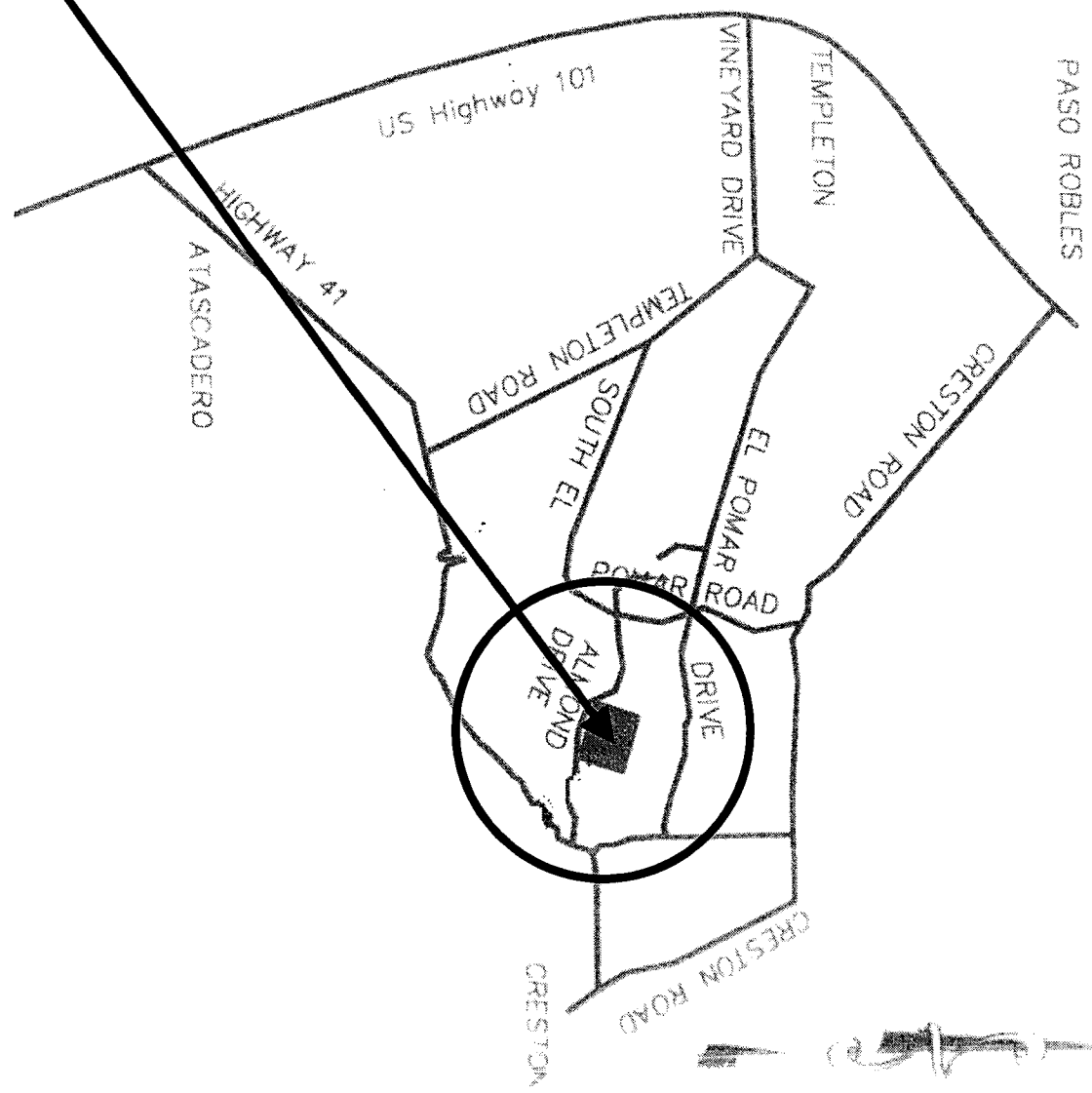
Tentative Map

- B. The proposed map is inconsistent with applicable county general and specific plans because it does not comply with Ag and Open Space Policies 20 and 21 because the proposed project will not:
1. ensure the long term protection of agricultural resources; and
 2. meet minimum parcel size standards for the creation of new parcels are shown in Figure 2-2.
- C. The proposed map does not meet intent of AB 1492 because the proposed project must be found to have a substantive basis for approving a subdivision map on the basis of a determination that each resulting parcel is large enough to sustain their agricultural uses. Further it requires subdivision be found to support commercial agriculture and not support just residential development.

Staff report prepared by:
James Caruso

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SITE



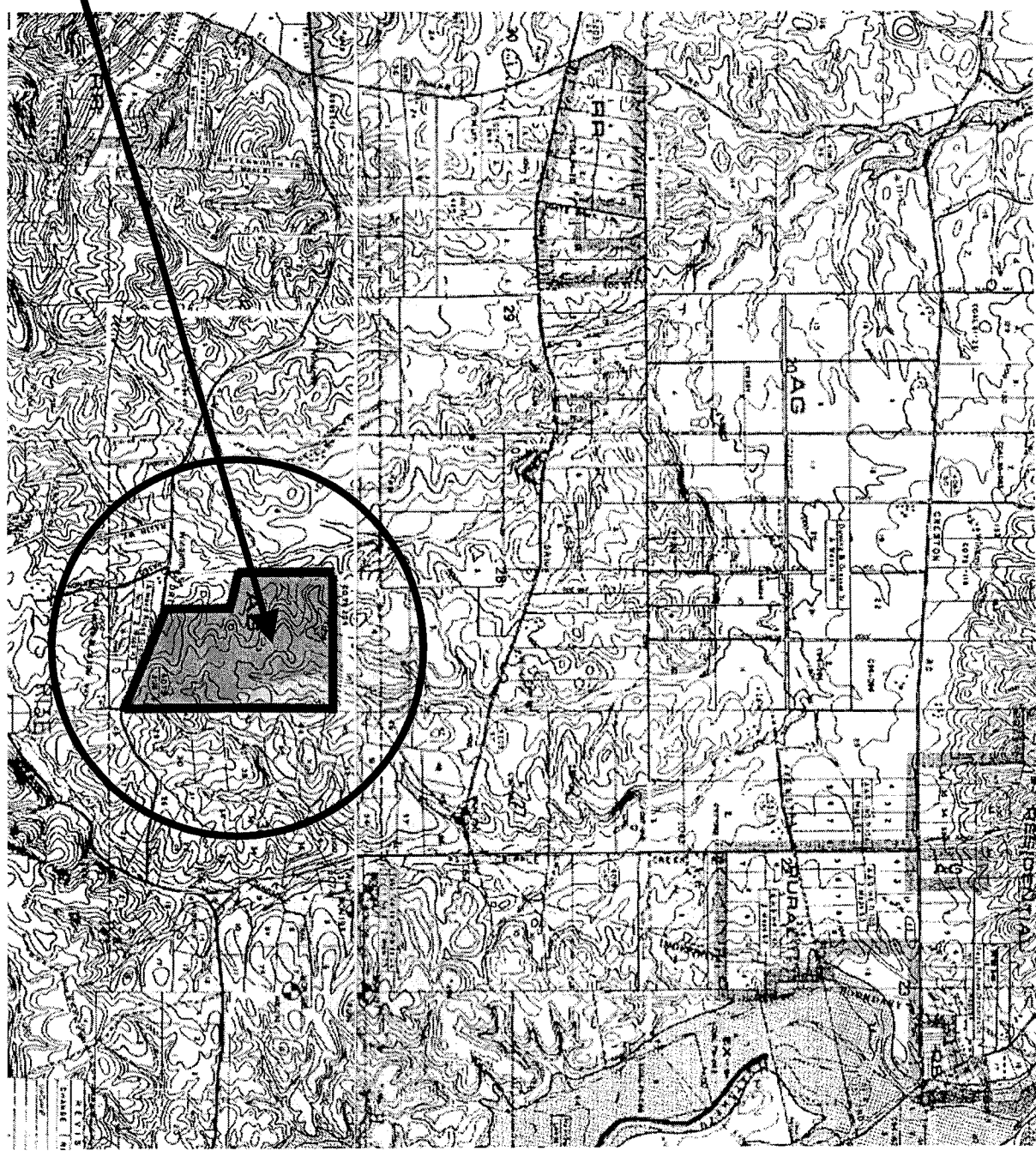
PROJECT

Parcel Map
Fourmeaux SUB2003-00155 CO04-0154



EXHIBIT

Vicinity Map



SITE

PROJECT

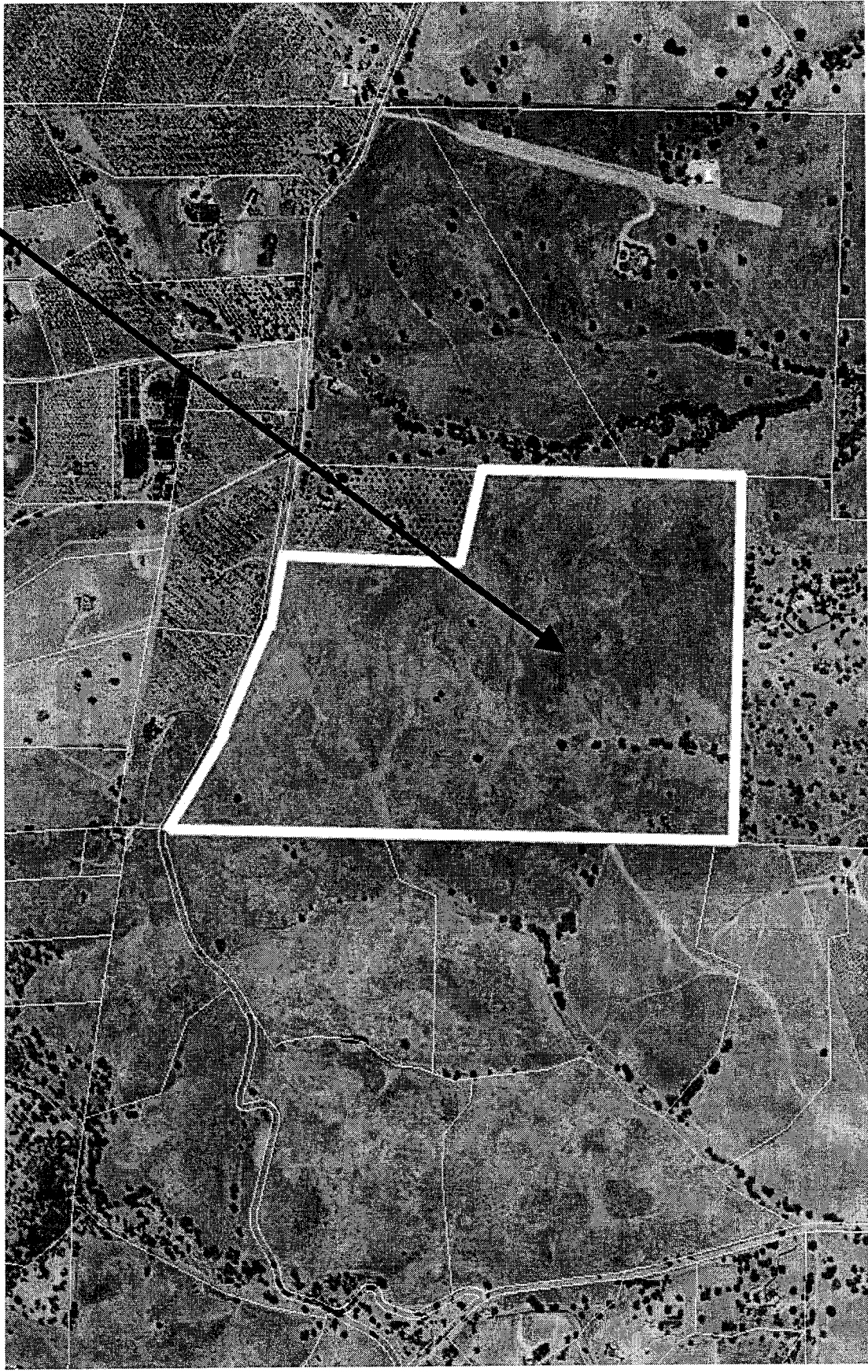
Parcel Map

Fourmeaux SUB2003-00155 CO04-0154



EXHIBIT

Land Use Category



SITE

PROJECT

Parcel Map

Fourmeaux SUB2003-00155 CO04-0154



EXHIBIT

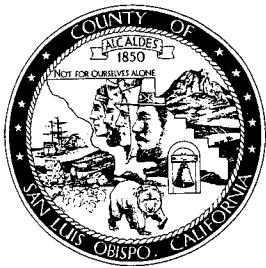
Aerial



Fourmeaux SUB2003-00155 CO04-0154



Site Plan



COUNTY OF SAN LUIS OBISPO

Department of Agriculture/Masurement Standards

2156 SIERRA WAY, SUITE A • SAN LUIS OBISPO, CALIFORNIA 93401-4556
 ROBERT F. LILLEY (805) 781-5910
 AGRICULTURAL COMMISSIONER/SEALER FAX (805) 781-1035

AgCommSLO@co.slo.ca.us

DATE: January 5, 2005

TO: Mr. Caruso, Senior Planner

FROM: Lynda L. Auchinachie, Agriculture Department *JA*

SUBJECT: Fourmeaux Parcel Map, SUB2003-00155 (0968)

Summary of Findings

The proposed project does not meet the subdivision requirements established in Land Use Ordinance, Title 22, Section 22.22.040. The map appears to have been submitted based on the existing agricultural preserve contract, however, the proposal is not consistent with the current agricultural preserve program Rules of Procedure that require larger minimum parcels than proposed. The proposed subdivision would result in potentially significant impacts to agricultural resources due to separate ownership of smaller parcels more likely to be developed as rural residences, increased home site development, compatibility impacts and indirect conversion pressure on adjacent agricultural properties. For these reasons, the Agriculture Department does not recommend approval of the proposed parcel map.

Introduction

Our report responds to your request for comments on the proposed Fourmeaux Parcel Map. Comments and recommendations are based on policies in the San Luis Obispo County Agriculture and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

Project Description and Agricultural Setting

The applicant is requesting to subdivide of an existing 199-acre property into two parcels of 80 and 119 acres each. The project site is within the Agriculture land use category and contracted within the agricultural preserve program with a minimum size of 80 acres. Historical use of the property included dry farm activities, while today the property supports grazing.

The property contains Class II, III, and IV irrigated and Class IV non-irrigated soils. These soils are generally suited for crops such as wine grapes, small grains, pasture, almond orchards, and rangeland. Irrigated agricultural crops have not been produced on the property.

Agricultural uses within the project vicinity include wine grape vineyards, pasture, dry farm hay/grain, and almond orchards. Surrounding properties are within the Agriculture land use category.

Evaluation of Agricultural Issues

Land Use Ordinance and the Agriculture and Open Space Element

The Land Use Ordinance (LUO) and the Agriculture and Open Space Element (AOSE) provide the criteria for the minimum parcel size of agricultural subdivisions. Applying the criteria to this property, in the current non-irrigated state, would indicate a minimum parcel size of 160 acres for this property based on land capability and 320 acres if considering current grazing use.

Agricultural Sustainability Impacts

The proposed subdivision would result in potentially significant impacts to agricultural resources because the resulting parcels do not have sufficient resources to sustain long-term agriculture production. Additionally, these smaller parcels would be part of the on going conversion of agricultural lands to rural residential type development. The desirability for this type of land use and parcel size continues to put pressure on lands historically used for agriculture to transition from production agricultural uses to a rural residential type of land use. The creation of additional substandard parcels in agricultural areas typically results in non-agricultural uses on lands with agricultural capabilities that create additional incompatibilities with existing agricultural operations.

Agricultural Preserve Program

This property was contracted as part of the original El Pomar Agricultural Preserve in 1972. The minimum parcel size designated in the agricultural preserve contract for the property is 80 acres. The contract includes a clause indicating that the approval of any subsequent subdivision would need to meet the current rules for the approval of a subdivision. The current rules include the LUO, AOSE and the Rules of Procedure for the agricultural preserve program. In this case, the application of current rules indicates parcel sizes of at least 160 acres each would be required.

In addition, AB 1492 attempts to address the subdivision of Williamson Act contracted parcels. The California Department of Conservation states the “creation of multiple smaller parcels from larger parcels is usually the first step in the eventual sale to individual property owners for residential development, and sale of integral parcels can impair the ability of a rancher or farmer to continue to graze or farm on remaining agricultural parcels, or create conflicts with new nonagricultural uses that may ensue.”

“For subdivision of Williamson Act contracted land, a local government must have a substantive basis for approving the application and map, it must do so on the basis of a specific and affirmative determination that each of the resulting parcels is large enough to sustain their agricultural uses to which it is restricted, and that the subdivision will not result in residential development of the resulting parcels except where residential use will be incidental to the commercial agricultural use of the land.”

“SB985 (Chapter 1081, Statutes of 1999) amended section 6674.4 of the Subdivision Map Act to require the legislative body of a local government to deny approval of a tentative map or parcel map if it finds the subdivision of Williamson Act contracted land will result in residential development not incidental to the commercial agricultural use of the land. Additionally, in Section 15 of SB 985 the legislature adopted three Attorney General Opinions (92-708 (December 2, 1992) 79-309 (May 11, 1979) and 70-229 (May 25, 1971) as law. The opinions express the requirement that parcels under the Williamson Act be kept large enough to sustain their agricultural use and that subdivision for the primary purpose of residential development violates the Act, regardless of parcel size.”

If you have questions, please call me at 781-5914.

**FIGURE 2-2
MINIMUM PARCEL SIZE (ACRES) FOR NEW LAND
DIVISIONS OF LANDS DESIGNATED AGRICULTURE (1)**

Natural Resource Conservation Service Land Capability Classification(2)	Irrigated(2,3,4)	Non-irrigated(2)
I, II (3)	40 acres; 20 acres if planted	---
III, IV	40	160
VI, VII	40 w/orchards or vineyards	320
VIII	---	320

Notes:

1. The parcel sizes in this table represent the minimum sizes allowable. Discretionary review of proposed land division applications may result in parcel sizes larger than those listed in the table.
2. For lands under Williamson Act contracts where portions of the property have different land capability ratings and agricultural uses, minimum parcel size(s) is determined per the county Rules of Procedure to Implement the California Land Conservation Act of 1966 (see Appendix A).
3. Land must be irrigated to qualify for an NRCS rating of Class I or II. Refer to the Glossary for the definition of irrigated. See Appendix C for a definition of irrigated lands as used in this element, as well as the general soil maps published by the USDA.
4. Proposed parcels may be as small as 20 acres if the following criteria are met:
 - a. the proposed parcels must be Class I and II soils, irrigated;
 - b. there must be at least 18 acres planted in irrigated row crops, specialty crops, field crops, orchards or vineyards;
 - c. there must be a production water source installed;
 - d. each proposed parcel will be limited to one primary residence; and
 - e. the resulting parcels must enter into a Williamson Act agricultural preserve contract in accordance with the county Rules of Procedure.